

Exhibit A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
3 SOUTHERN DIVISION

4 JOHN AARON VANDERBURG,
5 Plaintiff,

6 VERSUS CIVIL ACTION NO: 1:08CV90-LG-RHW

7
8 HARRISON COUNTY, MISSISSIPPI,
9 by and through its Board of
10 Supervisors; HARRISON COUNTY
11 SHERIFF, George Payne, in his
12 official capacity; CORRECTIONS
13 OFFICER RYAN TEEL, acting
14 under color of state law,
15 Defendants.

16 DEPOSITION OF JOHN AARON VANDERBURG

17 Taken at the offices of Brown Buchanan,
18 P.A., 796 Vieux Marche' Mall, Biloxi,
19 Mississippi, on Friday, August 21, 2009,
20 beginning at 9:33 a.m.

21 APPEARANCES:

22 PATRICK R. BUCHANAN, ESQUIRE
23 Brown Buchanan, P.A.
24 796 Vieux Marche' Mall, Suite 1
25 Biloxi, Mississippi 39530
26 ATTORNEY FOR PLAINTIFF

27 JOE C. GEWIN, ESQUIRE
28 HALEY BROOM, ESQUIRE
29 Dukes, Dukes, Keating & Faneca, P.A.
30 2909 13th Street, Sixth Floor
31 Gulfport, Mississippi 39501
32 ATTORNEYS FOR GEORGE PAYNE, JR.

1 Q. And isn't it true that the deputies,
2 when you arrived at the jail, actually met you
3 outside, or Officer Diehl outside, when you
4 arrived at the jail?

5 A. I recall one of them opening the door
6 for us.

7 Q. And on this document, the officer
8 checked that you were drinking, that you were
9 drunk, that you were resistant and belligerent.
10 Do you agree with all of that?

11 A. Yeah.

12 MS. BROOM:

13 We're going to make that Exhibit 1,
14 please.

15 Q. Now, you arrived at the Harrison County
16 Adult Detention Center, according to the records I
17 have, near midnight. Do you agree with that?

18 A. I don't recall what time it was.

19 Q. Okay. Would you have any reason to
20 dispute that it was 2348?

21 A. No.

22 Q. You would agree that you were -- once
23 you entered the booking department at the jail you
24 were ordered to stand against the wall?

25 A. I don't recall that, but I'm sure they

1 did because all that was going on. We were there
2 on the wall.

3 Q. And that's normally what -- have you
4 ever been to the Harrison County jail before?

5 A. Yes.

6 Q. Okay. And is that normal procedure, for
7 them to order you to stand against the wall?

8 A. Yes.

9 Q. Now, you didn't comply, did you?

10 A. Yes.

11 Q. You didn't stay against the wall, did
12 you?

13 A. Yes. After watching the video, I think
14 I stepped off about a step or so just to see what
15 they were doing to the girl.

16 Q. But you stepped off the wall?

17 A. I did step off the wall.

18 Q. In opposition to what the officers asked
19 you to do, correct?

20 A. I don't recall them telling me to stand
21 against the wall, though.

22 Q. Could they have told you to stand
23 against the wall?

24 A. They could have, but I don't recall it.

25 Q. Now, in your complaint you allege that

1 Teel was, I think, assaulting a lady.

2 A. Correct.

3 Q. Correct? Now, you didn't see that whole
4 incident, did you, between Teel or the other
5 officer and the lady, did you?

6 A. It was ongoing when we went in.

7 Q. Right. So you don't know what
8 transpired before you entered?

9 A. No.

10 Q. You don't know what threats, if any, she
11 made to Officer Teel?

12 A. No.

13 Q. You don't know if she physically hit
14 Officer Teel? You don't know anything that
15 happened between her and anyone else?

16 A. No, ma'am. It was ongoing when I went
17 in.

18 Q. Okay. You walked away from the wall and
19 got involved in that incident, didn't you?

20 A. No, ma'am.

21 Q. You mouthed off to Officer Teel, didn't
22 you?

23 A. I did.

24 Q. Do you recall what you said to Officer
25 Teel?

1 A. I do.

2 Q. What did you say?

3 A. I said, do you think you guys can handle
4 that girl all by yourself.

5 MR. BUCHANAN:

6 Can we go ahead and mark this while
7 she's --

8 THE WITNESS:

9 Prior to that I looked at the guy, if I
10 may --

11 MR. BUCHANAN:

12 Well, wait a minute. She's got to mark
13 this exhibit, then you can --

14 THE WITNESS:

15 Oh.

16 MR. BUCHANAN:

17 And then let her ask you a question.

18 THE WITNESS:

19 Okay.

20 (Exhibit 1 was marked.)

21 MS. BROOM:

22 Q. At this time, instead of sitting against
23 the wall and minding your own business, you made a
24 comment to the officer, and actually a sarcastic
25 comment, didn't you?

1 A. Yes.

2 Q. It was none of your business what was
3 going on with the other inmate, was it, or
4 detainee?

5 A. It wasn't my business.

6 Q. But you got involved anyway, didn't you?

7 A. It just appeared to me she was being
8 tortured like that, and I just thought that was
9 terrible. And I asked the guy standing next to
10 me -- I mentioned, I said, man, I don't think I've
11 ever seen anything quite like this before; and he
12 said, me neither. And then that's when I made my
13 comment.

14 Q. You were still drunk at this time,
15 weren't you?

16 A. Not as drunk.

17 Q. But you were drunk?

18 A. I doubt it. No. I wouldn't think I
19 would be drunk.

20 Q. You don't think you were --

21 A. By the time I was arrested to get to the
22 jail, I had pretty much sobered up.

23 Q. Okay. What was the time lapse between
24 the time you were arrested and the time you got to
25 the jail?

1 A. I would say two or three hours. I'm not
2 real sure.

3 Q. Two or three hours. And you think a
4 12-pack of beer, or a little less if you didn't
5 consume all of it, would have left your system and
6 the effects --

7 A. I was pretty -- getting straight by
8 then, yes, ma'am. Probably after drinking beer, I
9 think I'd be somewhat intoxicated, but very
10 coherent and very aware of my surroundings, no
11 more weaving around, no more slurring my words. I
12 was pretty clear in what I was doing and what I --
13 where I was at at the time.

14 Q. After you made that comment to Teel,
15 what did he state to you?

16 A. He said, this will be you if you don't
17 shut your fucking mouth.

18 Q. Okay. And were you still handcuffed at
19 this time?

20 A. Yes, ma'am.

21 Q. Now, in your complaint you stated you
22 were still handcuffed and still standing still.
23 But that's not the case, is it; you actually
24 walked off against the wall?

25 A. Looking at the video, I took a couple of

1 steps off the wall to get -- I guess I was
2 concerned about the girl.

3 Q. Okay. And what did you actually see
4 happen to the girl?

5 A. They were tackling her and roughhousing
6 her and trying to put tape on her mouth and put
7 her in the chair.

8 Q. Did you ever see any physical assaults
9 against the girl?

10 A. Well, they all were just -- there were
11 so many of them, I couldn't tell you, just trying
12 to -- they were just trying to subdue her, I mean,
13 and they were being real rough. And she was
14 screaming and crying and everything else. I was
15 concerned for her, I guess, I mean.

16 Q. But you simply saw the officers taking
17 her down? You didn't know what was going on
18 before, but then you felt the need to intervene in
19 that, didn't you?

20 A. I made a comment. I made the comment
21 that I made and I just -- I think if I had it to
22 do over again, I'd do it again.

23 Q. And what would you have done?

24 A. I'd say the same thing because they were
25 -- you know, that's far excessive force to subdue

1 a 100-pound girl, and they're surely trained to do
2 it better than that because that was ridiculous
3 what I saw.

4 Q. Do you know if the girl was injured?

5 A. I don't know.

6 Q. Do you know if the girl was being
7 combative?

8 A. I don't know how it started. Once
9 again, you're right, it wasn't my business
10 exactly; but it just didn't look right to me.

11 Q. And you don't know if the girl had
12 yielded a knife against the officers?

13 A. I have no idea who she was or what she
14 did or anything like that.

15 Q. Well, from what you saw, you simply saw
16 some officers taking another female down, correct?

17 A. They were taking her down, and it looked
18 to me like they were bending her body all kind of
19 different ways. And it just appeared, you know --
20 I mean, it is what it is; they were beating her
21 up.

22 Q. Okay. How were they beating her up?

23 A. Tackling her, trying to just -- to me it
24 appeared they were bending her body all kind of
25 ways trying -- I'm not sure if they were trying to

1 get her on her back or get her on her stomach. I
2 couldn't tell what they were doing. I don't even
3 know if they knew what they were doing; but, once
4 again, that's what I saw.

5 Q. You didn't have a good visual of what
6 was going on, did you?

7 A. I could see as good as anybody. I was
8 right there.

9 Q. But a lot of officers were around, so
10 you couldn't see every move that she made or the
11 officers?

12 A. Correct. Yeah. There was a lot of
13 officers on her. There was three or four that I
14 remember.

15 Q. After you and Teel had these words that
16 were exchanged back and forth, you were eventually
17 ordered to go stand against the booking counter,
18 correct?

19 A. Yes.

20 Q. Okay. But nothing happened between the
21 time that you made those comments from the time
22 that you were ordered to stand against the
23 counter, correct?

24 A. Not right then, no.

25 Q. Isn't it true that one of the arresting

1 officers, I think the arresting officer that
2 brought you in, had to place you back on the wall,
3 as well?

4 A. At one point, I guess I was standing in
5 the middle of the floor, and he threw me up
6 against the wall.

7 Q. So two officers, by that time, had
8 already asked you to stand against the wall,
9 right?

10 A. No.

11 Q. No? So just the arresting officer?

12 A. No one ever told me to get back on the
13 wall.

14 Q. Okay. Who pushed you up against the
15 wall?

16 A. I'm not sure, but it looked like it was
17 Teel.

18 Q. Okay. So prior to you going to the
19 booking counter, you've already been told to stand
20 against the wall and actually had to be placed
21 against the wall?

22 A. I was placed against the wall.

23 Q. Okay. Now, after you were ordered to go
24 stand at the counter, weren't you ordered to put
25 your hands on the counter, the booking counter?

1 A. I was handcuffed.

2 Q. But weren't you ordered to place your
3 hands on the counter?

4 A. No. I was handcuffed. The only way I
5 could possibly place my hands on the counter if I
6 turned around and someone gave me a boost. In
7 other words, I was handcuffed.

8 Q. So when were the handcuffs taken off of
9 you? Are you sure about that?

10 A. Yes.

11 Q. When were they taken off of you?

12 A. After -- they let me out of the holding
13 cell eventually, and then they took the cuffs off
14 me.

15 Q. Okay. Were you ordered to go up against
16 the booking room counter?

17 A. Yes.

18 Q. And were you ordered to stand still and
19 stand in front of the booking room counter?

20 A. No.

21 Q. No. Do you remember that or could you
22 have been?

23 A. Oh, yeah, I remember.

24 Q. Okay. And isn't it true that at that
25 time you picked your left -- I'm sorry, your right

1 hand up and brought it back toward the officer?

2 A. No, ma'am.

3 Q. So at no time did you turn your body
4 slightly nor lift your right hand up --

5 A. No.

6 Q. -- back toward the officer?

7 A. Nope. What happened --

8 Q. No. That's not my question. I'm sorry.

9 MR. BUCHANAN:

10 Well, he has an opportunity to explain.
11 Feel free to explain.

12 MS. BROOM:

13 Q. Okay. Well, go ahead.

14 A. Well, what happened was when my hand was
15 up in the air, the other officer had my -- my
16 handcuffs were too tight to start with, and I was
17 complaining about that already. And I looked back
18 and said, man -- I said, what's going on, man.
19 You know, I told him he was hurting my arm, to
20 take it easy is what I said. I said, take it
21 easy, you're hurting me, you're hurting me,
22 because he had my hand up. My hand was up because
23 he had me by the handcuffs, and they were tighter
24 and tighter and tighter. And I said, just take it
25 easy is what I said.

1 Q. Okay. Who had your hand up?

2 A. I don't know that officer's name, but
3 the one on the right side of me had my hand in the
4 air.

5 Q. So you're saying the officer was holding
6 your hand up?

7 A. He had my -- he had me by my hands, and
8 the other guy was slinging my shoes and socks off
9 and threw my hat on the floor and stuff. And I
10 told them, take it easy is all I said.

11 Q. Okay. And then they took your left sock
12 off, correct?

13 A. Yes, ma'am.

14 Q. I mean, your shoe and your sock?

15 A. Correct.

16 Q. Okay. And then at that time, before
17 they could get to your right sock, that's when the
18 hand was up, correct?

19 A. If I recall, it was up the whole time.

20 Q. All right. And then you were taken down
21 to the ground, correct?

22 A. Yes.

23 Q. And how were you taken down to the
24 ground, in your own words?

25 A. They slammed me down face first into the

1 concrete floor.

2 Q. Okay. Tell me the mechanics of your
3 body of how they got you from a standing position
4 to the ground.

5 A. I think the weight of the man pretty
6 much got me down, my hands behind my head. I
7 think I went knees first. I think I landed on my
8 good leg first and then ended up on my stomach.
9 And he put his knee in the back of my neck and
10 proceeded to pull this leg -- I'm on my stomach,
11 and he proceeded to pull my bad leg behind my
12 head. And I was like, oh, my God, man, I have a
13 bad leg or something like that. And the lady at
14 the desk says, he does have a bad leg. And he
15 says, oh, which one, this one? And she said, yes.
16 And then he pulled this one over by my head.

17 Q. Who did that?

18 A. Teel.

19 Q. How do you know it was Teel?

20 A. Well, because he was very -- he's the
21 biggest guy in the house, so he was pretty easy to
22 recognize.

23 Q. Okay. So did they pull your arm to take
24 you to the ground and turn your arm to take you to
25 the ground?

1 A. Yeah. If you pull, you know, your hands
2 straight up, you're going to go down, and that was
3 kind of how they did it. They already had my
4 hands, so they were already, I mean, in the
5 position to start with, so --

6 Q. So they had your right hand, and then
7 they -- what did they do with your right hand to
8 make you go to the ground?

9 A. My hands just went over -- I mean, they
10 were already elevated, so they just -- with that,
11 I think Teel probably grabbed me -- I mean, Teel
12 grabbed me from behind and threw me down.

13 Q. How did he grab you?

14 A. Just grabbed my torso. One officer had
15 me by the handcuff, arm, elevating my arm up by my
16 head. That gets you to lean over, and then Teel
17 just basically jumped on top of me.

18 Q. And threw you down to the ground?

19 A. Yes, ma'am.

20 Q. Now, why do you think all these officers
21 would have just thrown you to the ground?

22 A. Because they've been doing this for
23 years. I've been in and out of that jail. I've
24 seen it happen before.

25 Q. Has it ever --

1 A. Because I have a smart mouth maybe.

2 Q. And during that time, you had a smart
3 mouth, didn't you?

4 A. I told them what I said about the girl.

5 Q. But it didn't stop there, did it? You
6 kept --

7 A. No. After that, that was it. I never
8 said another word.

9 Q. Okay. So at the counter you're alleging
10 that you didn't make a peep?

11 A. I told them to take it easy, you're
12 hurting my arm. I said, what's going on, man,
13 you're hurting my arm, take it easy, just like
14 that. That's all I said. I didn't cuss them out,
15 call them a name or anything.

16 Q. So these officers, after you made that
17 statement, simply just took you down --

18 A. Took me down on the ground, yes, ma'am.
19 I'm sorry I interrupted her. I'm going
20 to try to stop doing that.

21 Q. Are you testifying that you didn't jerk
22 away from the officer at all while at the counter?

23 A. Yes.

24 Q. You didn't?

25 A. I'm testifying, yes, I did not.

1 Q. Okay. Just to make it clear. I'm
2 sorry.

3 A. Excuse me. Yes.

4 Q. And that you weren't verbally resistant
5 either at that time?

6 A. No, ma'am.

7 Q. Is that your testimony?

8 A. Yes.

9 Q. Okay. And then you were taken to the
10 ground is what you're alleging. And when you got
11 on the ground, you're alleging that Officer Teel
12 picked up your left leg?

13 A. Yes, ma'am. His knee was in the back of
14 my neck, which made it difficult to breathe, and
15 he put his hand on my ankle of my left leg.

16 Q. With his knee still on your --

17 A. On my neck.

18 Q. He reached and grabbed your ankle?

19 A. Yeah.

20 Q. How tall are you?

21 A. Six foot.

22 Q. Did his knee remain on your neck while
23 he grabbed your ankle?

24 A. Yes.

25 Q. Okay. And then what happened?

1 A. I said -- I told them I had a bad leg,
2 and I said it -- I'm sure I was -- I was trying to
3 make it be known I had a bad leg. And the lady
4 said, he does have a bad leg. And he goes, which
5 one, this one? And then he acted like he was
6 going to do it, and then he did -- pulled this one
7 behind my head.

8 Q. For the record, he acted like he was
9 going to do the left leg?

10 A. Yes, ma'am.

11 Q. But he didn't actually pull it up?

12 A. He didn't pull the left leg.

13 Q. Okay. So your left leg, the leg that
14 was injured, never was actually pulled to your
15 head, was it?

16 A. No.

17 Q. Okay. Then they pulled the -- you're
18 alleging they pulled the right leg up?

19 A. Correct.

20 Q. Which is the leg that was not injured
21 from falling out of the tree?

22 A. Correct.

23 Q. Now, you said Officer Teel had placed
24 his knee on your neck. When did he ever get up
25 from being on your neck, his knee on your neck?

1 A. After that, they picked me up and threw
2 me in the cell.

3 Q. So you're alleging that Teel's knee
4 stayed on your neck the entire time you were on
5 the ground?

6 A. Pretty much for the most part..

7 Q. I mean, for the entire event?

8 A. When they took me down -- well, no.
9 When they took me down, that -- you know, first
10 they took me down. And it all happened real fast
11 anyway. And when he grabbed my legs is about the
12 same time he put his knee in my neck, about the
13 same time.

14 Q. Okay. When this --

15 A. Like I say, yeah, they didn't -- he
16 didn't just take me down and put his knee in my
17 neck right away. He did it just right after that.
18 Somewhere in there he put his knee in the back of
19 my neck and then pulled my leg behind my head.

20 Q. Did anybody mention why they were
21 pulling your leg -- legs up?

22 A. No.

23 Q. But he asked you about the leg, the left
24 leg before he -- or you told him when he started
25 to touch it or what?

1 A. I just screamed out, I have a bad leg.

2 Q. When he touched your leg?

3 A. Yes.

4 Q. Then he said, okay, well, I'll go to the
5 right leg?

6 A. Correct.

7 Q. Okay. And then they pulled that leg up.
8 Then what happened then?

9 A. They took me to the holding cell and
10 handcuffed me to the wall.

11 Q. Is that when they took your shoes and
12 socks up, when they pulled that right leg up? Is
13 that when they took the shoe and sock off of your
14 right leg that was still there, when they pulled
15 that right leg up?

16 A. No. I don't recall when they took my
17 shoe and -- my other sock off, not exactly.

18 Q. Were you resisting when you were on the
19 ground?

20 A. No.

21 Q. Were you stating anything to the
22 officers?

23 A. Not other than what I just said, I have
24 a bad leg.

25 Q. Did the officer state anything to you?

1 A. Yeah.

2 Q. What did they state?

3 A. The one police officer -- the one
4 corrections officer came to the door after I was
5 handcuffed to the wall and he said, welcome to the
6 Harrison County house of Payne.

7 Q. I'm talking about when you were on the
8 floor there.

9 A. No.

10 Q. Now, the arresting officer, he was
11 standing nearby or actually within -- around with
12 all the other officers and actually bent down,
13 didn't he?

14 A. Yes, ma'am. He was right there.

15 Q. Okay. Did he ever state anything?

16 A. No, ma'am, not that I can remember.

17 Q. That arresting officer, he had a good
18 visual and he probably -- or he saw everything,
19 didn't he?

20 A. Yes, ma'am.

21 Q. He saw everything that transpired from
22 the moment you were at the counter till the moment
23 you were put into the holding cell, didn't he?

24 A. Yes, ma'am.

25 Q. And is that Officer Diehl?